IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1297 OF 2003
IN
SECOND APPEAL NO.851 OF 2003

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's Orders	Court's or Judge's Orders

CORAM : P.V.KAKADE,J.

DATE : 10th DECEMBER,2004

P.C.:

1. Heard both sides.

2. The second appeal is already admitted and ad-interim relief is granted in this matter.

3. The respondent has objected to the application for Stay on the ground that both the Courts below have held against the appellant recording findings that fraud is committed by them. However, that question will be decided at the time

of final hearing of the appeal and it cannot be contended at this stage. The learned counsel submitted that the yield from the land is about Rs.1,00,000/= and therefore the appellant should be asked to deposit the said amount. However, there is no evidence on record to hold that the yield is to that extent. In view of this position I am inclined to grant application with certain conditions.

4. Hence the application is allowed in terms of prayer clause (a) to the extent that the order of the lower court stands Stayed. However, it is clarified that the application filed by the Respondent for fixing mesne profit shall be prosecuted and after it is decided the respondent would be at liberty to move this court for further necessary orders with regard to plea of deposit of amount. With

these directions application stands disposed of.